

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

PARTEC AG and BF EXAQC AG,

Plaintiffs,

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 2:24-cv-00433-RWS

JURY TRIAL DEMANDED

**DEFENDANT MICROSOFT CORPORATION'S MOTION FOR THE COURT TO
ISSUE LETTERS OF REQUEST (LETTERS ROGATORY) UNDER THE HAGUE
CONVENTION**

Pursuant to Fed. R. Civ. P. 28(b) and the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters, Defendant Microsoft Corporation (“Microsoft”) respectfully requests that this Court issue the letters rogatory attached hereto as Exhibits 2–11 (“Letters Rogatory”). The Letters Rogatory solicit assistance from the following foreign authorities to obtain documents or deposition testimony regarding the patents-in-suit,¹ which may be material to Microsoft’s defenses:

- From French authority: Atos SE;
- From German authorities: Daniel Becker, Sebastian Rinke, Felix Wolf;
- From Italian authority: Cineca Consorzio Interuniversitario (CINECA), Fabio Affinito, Eurotech S.p.A., Mauro Rossi;
- From Luxembourgian authority: LuxProvide SA;
- From Spanish authority: Barcelona Supercomputing Center.

¹ U.S. Patent Nos. 10,142,156; 11,934,883; and 11,537,442.

Under the Hague Evidence Convention, a signatory may request that the competent authority of another signatory assist in obtaining evidence from its residents for use in judicial proceedings. The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, art. 1, Mar. 18, 1970, 23 U.S.T. 2555, T.I.A.S. No. 7444 (“Hague Evidence Convention”); *see* 28 U.S.C § 1781(b)(2); *Société Nationale Industrielle Aérospatiale v. U.S. Dist. Ct. for the S. Dist. of Iowa*, 482 U.S. 522, 524 (1987). The United States, France, Germany, Italy, Luxembourg and Spain are signatories to the Hague Evidence Convention. *See* Ex. 1 (Hague Conference on Private International Law, Conventions: Signatures, Ratifications, Approvals and Accessions, Status on 12 December 2024) at 1.

Here, a production of documents and a deposition of the above-listed entity and individuals are relevant and necessary. Upon information and belief, the above-listed entity and individuals have documents and information relating to the conception and reduction to practice of the patents-in-suit and the scope of the asserted claims of the patents-in-suit. Particularly, Plaintiffs claim that ParTec participated in various supercomputer projects with the above-listed entities and individuals and developed and implemented the dynamic Modular System Architecture (dMSA) that Plaintiffs allege to embody the claimed inventions of the Asserted Patents. *See* Attachments B–L.

The relevance of the requested documents and testimony is explained in more detail in Microsoft’s Letters Rogatory. *See* Ex. 2–11.

Accordingly, Microsoft requests that the Court grant this motion and issue the Letters Rogatory attached as Exhibit 2–11. Microsoft further requests that, after the Court has signed the Letters Rogatory, the Clerk of this Court authenticate the Court’s signature under the seal of this Court and return the original signed and sealed executed Letters Rogatory, and two certified copies

of each of the signed and sealed executed Letters, to Microsoft's counsel, for delivery to the proper authorities in Germany, France, Italy, Spain and Luxembourg.

Dated: April 14, 2025

Respectfully submitted,

/s/ Betty Chen

Melissa Smith

State Bar No. 24001351

melissa@gillamsmithlaw.com

GILLAM & SMITH LLP

303 South Washington Avenue

Marshall, TX 75670

Tel: (903) 934-8450

Fax: (903) 934-9257

Betty Chen

LEAD ATTORNEY

State Bar No. 24056720

bchen@desmaraisllp.com

DESMARAIS LLP

101 California Street

San Francisco, CA 94111

Tel: (415) 573-1900

Fax: (415) 573-1901

Jeffrey Seddon (pro hac vice)

jseddon@desmaraisllp.com

DESMARAIS LLP

230 Park Avenue

New York, NY 10169

Tel: (212) 351-3400

Fax: (212) 351-3401

Counsel for Defendant

MICROSOFT CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document and attachment thereto have been served on all counsel of record via the Court's ECF system on April 14, 2025.

/s/ *Melissa R. Smith*

Melissa R. Smith